

Notice of Allowability

Application No.

10/049,864

Examiner

St. John Courtenay III

Applicant(s)

KRELLER ET AL.

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment and supporting arguments received June 22, 2005.
2. ☒ The allowed claim(s) is/are 16-40 now renumbered as 1-25.
3. ☒ The drawings filed on 19 February 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 11-27-2002, 04-30-2002
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


ST. JOHN COURTENAY III
PRIMARY EXAMINER

Examiner's Statement of Reasons for Allowance

The following is an Examiner's statement of reasons for allowance:

The words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d1320, 1322 (Fed. Cir. 1989).

In the instant specification, Applicant has provided clear definitions for the claimed “agent” and “agent system” (see substitute instant specification, filed Feb. 19, 2002):

[0003] **Agents** are autonomous, cooperative software units comprising code and data. They are independently operating software units which require no continual interaction with the user. There are both static and mobile agents.

[0014] An **agent system** is a collection of service programs which need the respective agents for their tasks. These service programs generally comprise an agent manager connected to other service programs, so that the active mobile agents can fall back on the respective computer resources and can migrate from one agent system in the network to another **agent system** in the network via network interfaces.

When the instant claims are properly construed in light of the above definitions, the claims are deemed allowable over the prior art of record (including the references newly cited in this office action), for at least the following reasons:

The prior art of record does not teach nor fairly suggest where the components of an **agent system** are selectively added or assembled or compiled on the host (i.e., server-side) computer based on an identifier that identifies client hardware or client software, and then the agent system is transmitted as a discrete agent system to the client computer and loaded on the client computer.

The Examiner notes that the instant claims require an “agent system” to be assembled and transmitted from the host computer to the client computer, as distinguished from the transmission of merely a single “agent.”

In particular, European Patent Application EP 0 817 031 A2 fails to teach or fairly suggest the aforementioned **agent system** that is assembled on the host and transmitted as a discrete agent system to the client where it is then loaded, as claimed. The Examiner has carefully reviewed the rejection made by the German patent examiner regarding originally filed claims 1-15, now cancelled.

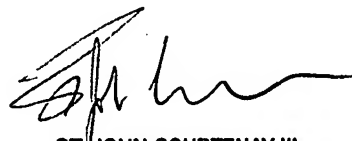
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Likewise, U.S. Patents or U.S. Patent Application Publications that do disclose agents used for software update operations (e.g., in particular US 2002/0184619, US 2002/0120725, and U.S. Patents 6,009,274 and 6,202,207), fail to teach or fairly suggest the aforementioned **agent system** that is assembled on the host and transmitted as a discrete agent system to the client where it is then loaded, as claimed.

The cited prior art of record that teaches the use of agents to perform software updates typically discloses the use of a static agent implemented on the client side that simply compares current client application versions with the most recent updated application versions available on the server. The identified newer versions are then downloaded from the server to the client in the conventional prior art manner.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



ST. JOHN COURTENAY III
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